



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/864,694	05/24/2001	Mark Nicholas Johnson	01458	2095
24118	7590	12/23/2003	EXAMINER	
HEAD, JOHNSON & KACHIGIAN 228 W 17TH PLACE TULSA, OK 74119			HEWITT, JAMES M	
			ART UNIT	PAPER NUMBER
			3679	

DATE MAILED: 12/23/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/864,694

Applicant(s)

JOHNSON, MARK NICHOLAS

Examiner

James M Hewitt

Art Unit

3679

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 06 October 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1,3-6,8-11,14 and 18-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,3-6,8-11,14 and 18-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. §§ 119 and 120

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
- a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 10/6/03 has been entered.

### ***Specification***

The amendment filed 8/13/03 is objected to under 35 U.S.C. 132 because it introduces new matter into the disclosure. 35 U.S.C. 132 states that no amendment shall introduce new matter into the disclosure of the invention. The added material which is not supported by the original disclosure is as follows: In claim 9, lines 4-6, the opening is said to be formed by cutting into and removing material from the first elongated member. The disclosure does not state that the opening is or can be formed by cutting into and removing material from the first member.

Applicant is required to cancel the new matter in the reply to this Office Action.

Note that for examination purposes, claim 9 has been treated as if lines 3-6 recite "taking a first elongated member, and forming an opening depending from one edge of

Art Unit: 3679

said member to leave a band of material at said opening to reveal an interior surface of said first elongated member;”.

### ***Claim Objections***

Claims 8, 10, 14 and 19 are objected to because of the following informalities:

In claim 8 line 2, “an insert” should be “said insert”.

In claim 10 lines 2-3, the phrase “said member or insert” should be replaced with “said second member”.

In claim 14 line 1, “said insert” should be “said second member”.

In claim 14 line 2, the phrase “and to which said second member is connected” should be deleted.

In claim 19 line 3, “said insert” should be “said second member”.

Appropriate correction is required.

Note that for examination purposes, the claims will be treated as if the above suggested changes have been incorporated.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Art Unit: 3679

Claims 1, 3, 5, 6, and 8 are rejected under 35 U.S.C. 102(b) as being anticipated by Maslow (US 3,757,705).

With respect to claim 1, Maslow discloses a mechanical joint for use in the construction of an article, said joint comprising: a tubular first member (22) for connection with a second member (12), and wherein said first member is provided with an opening defined by first and second edges to reveal an interior surface of the first member, with adjacent portions (18, 20) of the tubular first member angled with respect to one another, and an insert (28) received and retained within the opening to form the mechanical joint and wherein at the location of the opening, adjacent portions of the tubular first member are joined by a single thickness band of material at said opening so that the interior surface of the first member mates with said insert.

With respect to claim 3, wherein said second member lies in a plane substantially perpendicular to the plane of a longitudinal axis of said first tubular member.

With respect to claim 5, wherein said opening is formed so as to extend from one side of the first tubular member substantially across the majority of said first tubular member to the opposite side leaving said single thickness band of material at said opening.

With respect to claim 6, wherein said insert is provided in said opening and has upper and lower collars (see Figure 4) which protrude respectively above or below said first tubular member.

With respect to claim 8, wherein said second member is attached to said insert held with said opening.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 4, 9-10, 14 and 19-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Maslow (US 3,757,705) in view of Burton et al (US 3,719,389).

With respect to claim 9, Maslow discloses a method of forming a mechanical joint, said method comprising: taking a first elongated member and forming an opening depending from one edge of said member to leave a band of material at said opening to reveal an interior surface of said first elongated member; positioning a second member in said opening so that said interior surface mates therewith. Maslow fails to teach how the opening is formed; specifically, by moving the first member to move first and second edges of the opening towards one another to a degree to trap and engage the second member in said opening. Burton et al teaches forming a closed loop clamping section (see Figure 3) of an article (a chair) by heating and using a mandrel to form the desired shape of the opening. It is not clear how Maslow forms his sleeve (22), however it would have been obvious to one having ordinary skill in the art at the time the invention was made to form Maslow's sleeve by heating a initially flat cut of material and using a mandrel to form the flat, now formable portion, into a circular sleeve.

With respect to claims 4 and 19, refer to the above rejection of claim 9.

Art Unit: 3679

With respect to claim 10, wherein said first and second edges are respectively moved so as to substantially close said opening and hence retain said second member in position in said opening. Refer to Figures 2-4 in Maslow.

With respect to claim 14, wherein said second member (mandrel or former) is a former retained in position in said opening (up and until the mandrel is to be removed).

With respect to claim 20, refer to the above rejections of claims 1, 9 and 14. The second member has been interpreted as the mandrel, as in claim 14.

Claims 11 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Maslow in view of Burton et al, as applied to claim 9 above, and further in view of Cruson (US 3,103,742).

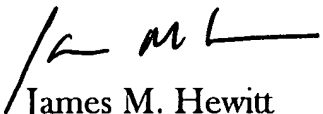
Maslow and Burton et al teach all the limitations of claims 11 and 18 except that the opening is closed by a closing member (weld material). In Figures 1 and 2, Cruson discloses welding the opening of the tubular member closed. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Maslow/Burton et al by closing the opening as taught by Cruson in order to permanently seal the tubular sleeve if it is desired to fixedly secure the sleeves in position on members (28). Note that Maslow, in col. 4 lines 14-32, states that the sleeves may be provided with a split wall portion to allow the shelves to be positioned in a horizontal plane defined by ledges (36). If a user preferred not to have the sleeves be slidable along the members (28), he/she could most certainly choose to permanently close the openings (38) by welding, as evidenced by Cruson.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to James M Hewitt whose telephone number is 703-305-0552. The examiner can normally be reached on M-F, 930am-600pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lynne Browne can be reached on 703-308-1159. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9326.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1113.

  
James M. Hewitt  
Patent Examiner  
Technology Center 3600